

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPLICANT:	LUMPKIN	)	
SERIAL NO.:	10/679,128	)	EXAMINER: JOHNSON,
		)	MATTHEW A.
FILED:	OCTOBER 3, 2003	)	
		)	ART UNIT: 3656
FOR:	SYMMETRIC CLAMP STRUCTURE	)	CONFIRM. NO.: 2259
		)	
		)	

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REPLY BRIEF TO EXAMINER'S ANSWER**

Dear Sir:

This paper is in response to the Examiner's Answer mailed on May 13, 2010 in the above-captioned application before the Board of Patent Appeals and Interferences. It is believed that no fee is required for the filing of this paper.

### **RESPONSE TO EXAMINER'S ARGUMENTS**

In Applicant's Appeal Brief filed on February 12, 2010, the Applicant raised several issues. One issue concerned the language **"for selective insertion in one of the first and second threaded through bores."** The Examiner states on page 20 of his Examiner's Answer that was mailed on May 13, 2010 the following:

Regarding the second point, the examiner notes that the limitation contains the phrase "the screw is configured for selective insertion in one of the first and second threaded through bores". As broadly recited, as long as the screw is configured to be inserted in at least one of the bores, the claim limitation has been met. Additionally, since Nielsen explicitly discloses that both the bore in 42A and 42B may be threaded, the fastener is capable of being selectively inserted in either threaded bore.

See Examiner's Answer at page 20.

First, it appears that the Examiner is ignoring the word "selective" in his application of the language **"for selective insertion in one of the first and second threaded through bores."** An Examiner must give weight to all the claim language when applying the claims. While the language **"for insertion in one of the first and second threaded through bores"** might arguably be interpreted as the examiner has stated in his Examiner's Answer, the claim language does not recite that. Rather, the claim language recites **"for selective insertion in one of the first and second threaded through bores."** When selective is given the proper weight it clearly requires that the screw is capable of being screwed into both threaded bores.

Second, the Examiner has previously acknowledged that the language **"for selective insertion in one of the first and second threaded through bores"** means that the screw is

capable of being screwed into both threaded bores. The Final Office Action mailed on September 3, 2009 states the following:

- Screw (40) comprising a head and a shank (Fig. 3), the head being at one end of the shank and the shank having a threaded portion at a second end opposite the first end, the screw being configured for selective insertion in one of the first and second threaded through bores (the screw is capable of being screwed into both threaded bores) so that with a threaded engagement between the threaded portion of the shank and either the first threaded through bore (42A) of the first arm (36, 42A) or the second

See Final Office Action mailed September 3, 2009, page 2, last paragraph.

Clearly, this statement by the Examiner in the final office action explicitly recognizes that the screw is capable of being screwed into both threaded bores.

Third, the prosecution history makes clear that the meaning of the language **“for selective insertion in one of the first and second threaded through bores”** is that the screw described is capable of being screwed into both threaded bores. An Applicant is entitled to be his/her own lexicographer. And, in this instance there can be no doubt that Applicant intends the language **“for selective insertion in one of the first and second threaded through bores”** to mean that the screw described is capable of being screwed into both threaded bores. See CCS Fitness, Inc. v. Brunswick Corp., 288 F.3d 1359 (Fed. Cir. 2002)(“claim term will not receive its

ordinary meaning if the patentee acted as his own lexicographer and clearly set forth a definition of the disputed claim term in either the specification or prosecution history”).

Therefore, for all of these reasons the Examiner is incorrect to assert in his Examiner's Answer that the screw need only be configured to screw into one bore. Thus, the rejection of claims 1, 2-4, 6-8, 10, and 14-16 in view of the combination of Nielsen U.S. Patent No. 6,186,027 and Hand et al., U.S. Patent No. 1,870,112 is incorrect.

The Applicant's other arguments from Applicant's Appeal Brief are hereby incorporated by reference.


### CONCLUSION

Accordingly, Applicant respectfully requests that the rejections of the Examiner be reversed.

The undersigned hereby authorizes the charge of any fees created by the filing of this paper or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date: 6/3/10



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